

HOUSE BILL NO. 502

INTRODUCED BY WISEMAN, LENHART, WARDEN, BRANAE, HARRIS, A. OLSON, FUREY, KLOCK,
GROESBECK

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE REQUIREMENT THAT FINGERPRINTS BE
SUBMITTED AND A BACKGROUND CHECK BE CONDUCTED WITH RESPECT TO A MANAGER OF A
FACILITY FOR WHICH AN APPLICATION FOR A BEER AND WINE LICENSE FOR OFF-PREMISES
CONSUMPTION IS BEING SOUGHT; ~~REQUIRING THE DESTRUCTION OF EXISTING RECORDS OF~~
~~FINGERPRINTS AND BACKGROUND CHECKS OF APPLICANTS FOR BEER AND WINE LICENSES FOR~~
~~OFF-PREMISES CONSUMPTION; CLARIFYING THE REQUIREMENT FOR ADDITIONAL FINGERPRINTING~~
~~AND BACKGROUND CHECKS WITH RESPECT TO A LICENSE FOR OFF-PREMISES CONSUMPTION; AND~~
AMENDING ~~SECTIONS 16-4-115 AND~~ SECTION 16-4-414, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1.~~ Section 16-4-115, MCA, is amended to read:

~~"16-4-115. Beer and wine licenses for off-premises consumption. (1) A retail license to sell beer~~
~~or table wine, or both, in the original packages for off-premises consumption may be issued only to a person,~~
~~firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer or~~
~~table wine, or both, and whose premises proposed for licensing are operated as a bona fide grocery store or a~~
~~drugstore licensed as a pharmacy. The number of licenses that the department may issue is not limited by the~~
~~provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and~~
~~the department may in the exercise of its sound discretion grant or deny an application for any license or~~
~~suspend or revoke any license for cause.~~

~~(2) Upon receipt of a completed application for a license under this section, accompanied by the~~
~~necessary license fee as provided in 16-4-501, the department shall request that the department of justice make~~
~~a background investigation of all matters relating to the application.~~

~~(3) Based on the results of the investigation or in exercising its sound discretion as provided in~~
~~subsection (1), the department shall determine whether:~~

1 ~~_____ (a) the applicant is qualified to receive a license;~~
2 ~~_____ (b) the applicant's premises are suitable for the carrying on of the business; and~~
3 ~~_____ (c) the requirements of this code and the rules promulgated by the department are met and complied~~
4 ~~with.~~
5 ~~_____ (4)(3) License applications submitted under this section are not subject to the provisions of 16-4-203,~~
6 ~~and 16-4-207, and 16-4-402.~~
7 ~~_____ (5)(4) If the premises proposed for licensing under this section are a new or remodeled structure, the~~
8 ~~department may issue a conditional license prior to completion of the premises upon reasonable evidence that~~
9 ~~the premises will be suitable for the carrying on of business as a bona fide grocery store or a drugstore licensed~~
10 ~~as a pharmacy."~~
11

12 **Section 1.** Section 16-4-414, MCA, is amended to read:

13 **"16-4-414. Fingerprints required of applicants -- EXCEPTIONS.** (1) ~~Except for an application for a~~
14 ~~beer and wine license for off-premises consumption under 16-4-115~~ AS PROVIDED IN SUBSECTIONS (2) AND (3), an
15 applicant for a license under this code, any person employed by the applicant as a manager, and, if the applicant
16 is a corporation, each person holding 10% or more of the outstanding stock and each officer and director shall
17 submit their fingerprints with the application to facilitate a fingerprint and background check by the department
18 of justice and the federal bureau of investigation. The results of the investigation must be used by the
19 department in determining the applicant's eligibility for a license.

20 (2) (A) WHEN THE APPLICANT IS SEEKING A LICENSE FOR OFF-PREMISES CONSUMPTION, THE FOLLOWING
21 PERSONS ARE SUBJECT TO THE FINGERPRINT AND BACKGROUND CHECK DESCRIBED IN SUBSECTION (1):

22 (I) THE APPLICANT;

23 (II) A PERSON DESIGNATED BY THE APPLICANT AS RESPONSIBLE FOR OPERATING THE LICENSED ESTABLISHMENT
24 ON BEHALF OF THE LICENSEE; OR

25 (III) IF THE APPLICANT IS A CORPORATION, EACH PERSON HOLDING 10% OR MORE OF THE OUTSTANDING STOCK
26 AND EACH OFFICER AND DIRECTOR RESPONSIBLE FOR OPERATING THE LICENSED ESTABLISHMENT.

27 (B) ADDITIONAL FINGERPRINT AND BACKGROUND CHECKS MAY BE REQUIRED AT RENEWAL ONLY FOR NEW
28 PERSONS DESCRIBED IN SUBSECTION (2)(A).

29 (C) A CHANGE IN THE FORM OF A LICENSEE'S BUSINESS ENTITY THAT DOES NOT RESULT IN ANY PERSON HAVING
30 A NEW OWNERSHIP INTEREST IN THE BUSINESS IS NOT GROUNDS FOR THE DEPARTMENT TO REQUIRE A FINGERPRINT OR

1 BACKGROUND CHECK.

2 (3) WHEN THE APPLICANT IS SEEKING A LICENSE FOR OFF-PREMISES CONSUMPTION, A PERSON EMPLOYED BY
3 THE APPLICANT AS A MANAGER IS NOT SUBJECT TO THE FINGERPRINT AND BACKGROUND CHECK DESCRIBED IN
4 SUBSECTION (1)."

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6 ~~NEW SECTION. **Section 3. Transition.** Fingerprint and background check records held by the~~
7 ~~department of justice or department of revenue relating to applications for beer and wine licenses for~~
8 ~~off-premises consumption under 16-4-115 must be destroyed within 90 days after [the effective date of this act].~~

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10 NEW SECTION. **SECTION 2. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

11 - END -